



2011 Legislative Session Sentencing Update

Utah Sentencing Commission

Bill #	Title	Statute	Description	Penalty Changes	Increased Fine or Fees	Anticipated Prison Admissions	Anticipated Fiscal Impact
House Bills							
1 st sub HB 20	Accident Responsibility Amendments	Amends 41-6a-401 41-6a-401.3 41-6a-401.5	Amends the requirements for drivers involved in accidents to require that that if a driver has “reason to believe” that they have been involved in an accident causing damage, injury, or death, they shall remain at the scene of the accident and comply with the law. Additionally, it requires a driver who later becomes aware that they were involved in an accident causing damage, injury, or death to immediately comply with the requirements of the law upon becoming aware.				None
HB 23	Controlled Substance Modifications	Amends 41-6a-517 58-37-2 58-37-3 58-37-4 58-37-6 58-37-8 58-38a-203 58-38a-204 Enacts 58-37-4.2	Creates a list of controlled substances which includes the synthetic and analog equivalents of cannabinoid substances (Spice) as well as some bath salts (Ivorywave)	2 new class B misdemeanors 2 new 3 rd degree felonies 2 new 2 nd degree felonies			None

1st sub HB 28	Penalties for Unauthorized Use of Records	Amends 41-1a-116 53-3-109 53-10-108 53-10-111	Specifies that it is a class B misdemeanor for a person to unlawfully access, use, or disclose any record maintained by the Driver License Division, BCI, or the Criminal Investigations and Technical Services Division. Requires that anyone aware of unauthorized use of these records inform the Public Safety Commissioner and the appropriate division director.	3 new class B misdemeanors			None
HB 31	Restoration of the Right to Vote and Hold Elective Office	Amends 20A-1-609 20A-2-101 20A-3-202 20A-9-203 Enacts 20A-2-101.3	Allows the restoration of the right to vote for a person convicted of a misdemeanor violation of the election code when the individual has been placed on probation or completes the required sentence of incarceration. Restores the right to run for elected office for a person convicted of a misdemeanor violation of the election code 5 years after the conviction if the person has successfully completed all court obligations, or when the person has been granted an expungement for the offense.				None
HB 45	Vehicle Impound Amendments	Amends 41-1a-1101	Allows a peace officer to seize, without warrant, any vehicle the officer has reason to believe has been involved in an accident involving property damage, injury, or death, if the officer also believes the person did not remain at the scene of the accident to comply with the requirements of the law.				None
3rd sub HB 48	Fingerprints of Juveniles	Amends 78A-6-1104	Requires fingerprints and photographs of juveniles 14 years of age or older admitted to a detention facility for what would be a felony offense if committed by an adult or adjudicated guilty for what would be a felony or a class A misdemeanor if committed by an adult.				\$51,400
HB 52	Limitation of Actions- Criminal Offenses	Amends 76-1-301	Removes the statute of limitations for a predicate offense to murder and aggravating offenses to aggravated murder committed as part of the same criminal episode as the murder or aggravated murder. The bill also defines "predicate offense" as used in this section.				None
HB 56	Expungement Amendments	Amends 77-40-104 77-40-105	Removes the "intervening arrest" restriction for a certificate of eligibility for an expungement, and replaces it with a restriction for "criminal proceedings pending against the petitioner."				None

HB 60	Prohibiting Contributions During Special Session	Amends 36-11-305	Makes it a class A misdemeanor to make a campaign contribution to a legislator or the Governor during any special session- previously only applied to special sessions after July 1 of a general election year.	New class A misdemeanor			None
HB 71	Victim Rights Amendments	Amends 77-38-4	Allows “the representative of the victim” to appear in place of, or together with the victim at important criminal or juvenile justice hearings. Adds parole hearings to the list of “important criminal or juvenile justice hearings”				None
1st sub HB 75	Dangerous Weapon Amendments	Amends 76-3-203.2 76-10-505.5	Changes the definition of “on or about school premises” for the purpose of the sentencing enhancement for the use of a dangerous weapon on or about school premises by removing the 1000 ft perimeter around preschool or child care facilities from the definition. Creates a definition for “on or about school premises” for purposes of restricting possession of weapons. The definition removes the 1000 ft restricted area around schools and limits the restricted area to the immediate premises of elementary and secondary schools, institutions of higher education, and preschool and child care facilities.	Removes a class B misdemeanor Removes a class A misdemeanor			None
1st sub HB 115	Mechanics’ Liens Amendments	(relevant statutes only) Enacts 76-6-524	Makes it a class B misdemeanor for a person to knowingly falsify information for the purpose of obtaining priority of a preconstruction service lien.	New class B misdemeanor			None
3rd sub HB 116	Guest Worker Program Act	(relevant statutes only) Amends 76-10-2901 77-7-2 Enacts 76-9-1001 76-9-1002 76-9-1003 76-9-1004 76-9-1005	Makes it a class B misdemeanor for a person to furnish false or forged information or documentation in support of an application for a guest worker permit or to alter information on a permit. Makes it a 3 rd degree felony to encourage or induce an alien to come to the state of Utah in violation of the law or to engage in a conspiracy to transport or harbor an alien. Allows an officer to make an arrest without a warrant when the officer has reasonable cause to believe that a person is an alien or is subject to a civil removal order.	New class B misdemeanor 2 new 3rd degree felonies* *also included in HB 497			\$5,921,400

1st sub HB 121	Sexual Solicitation Amendments	Amends 76-10-1313	Amends the offense of Sexual Solicitation to include the act of offering agreeing, engaging in, requesting or directing another to engage in sexual or lewd acts to demonstrate intent to engage in prostitution.	New class B misdemeanor			None
HB 153	County correctional Facilities Funding Amendments	Amends 64-13e-102 64-13e-103	Provides that the compensation rate for housing state contract inmates in county jails shall be 73% of the final state daily incarceration rate for beds that are dedicated to a treatment program and 70% of the final state daily incarceration rate for all other beds.				\$123,900
HB 162	Pedestrians on Freeways	Amends 41-6a-1009	Makes it a class C misdemeanor for a pedestrian to walk along or on a no access freeway facility except during an emergency.	New class C misdemeanor			None
HB 167	Incarceration Amendments	Amends 76-3-208	Removes the option of an offender convicted of a class A misdemeanor and sentenced to a year in jail to elect to serve the commitment at the prison.				None
HB 192	Controlled Substances Advisory Committee Amendments	Amends 58-38a-201 58-38a-202	Adds an advanced practice registered nurse and a representative of the public to the make up of the Controlled Substances Advisory Committee.				None
HB 198	Tobacco Related Penalty Amendments	Amends 59-14-214 59-14-407 59-14-606 Enacts 59-14-103	Makes it a class B misdemeanor for a person to fail to file tobacco taxation reports on time or to provide false or misleading information in relation to a report.	2 new class B misdemeanors			None
HB 202	Death Penalty Procedures Act	Amends 77-19-8 78B-9-202	Provides that a court may not issue a stay of judgment of death after a first petition has been denied or dismissed, unless the claims are not bared, are potentially meritorious, and the petition cannot be resolved before the execution date. Provides that a court shall appoint counsel to represent a petitioner in a post conviction review case for the first petition filed after the direct appeal. A court may appoint counsel in a successive petition only if the claim could not have been raised in any previously filed post trial motion or proceeding.				None
2nd sub HB 224	Radio Frequency Identification	Enacts 77-23a-4.5	Creates a class A misdemeanor for a person to coerce or compel another individual to submit to the subcutaneous implantation of a radio frequency tag.	New class A misdemeanor			None

1 st sub HB 230	Disability Amendments	(relevant statutes only) Amends 77- 13-1 77-16a-101 77-16a-102 77-16a-103 77-16a-104 77-16a-201 77-16a-202 77-16a-203 77-16a-204 77-16a-205 77-16a-302 77-16a-304 77-16a-306 77-18-1 77-18-1.1 77-18-8.3 77-18-8.5 77-27-2 77-27-5.3 77-27-10.5 77-33-5 77-38-302 78A-2-302 78A-6-103 78A-6-117 78A-11-108 78B-3-110	Changes certain terms within the criminal code. The bill replaces the term “guilty and mentally ill” with the term “guilty with a mental illness.” Replaces the term “guilty of a lesser offense and mentally ill,” with the term “guilty of a lesser offense with a mental illness.”				None
HB 232	Drug Paraphernalia Definition Amendments	Amends 58-37a-3 58-37a-4 58-37a-5	Provides that a person may not be charged with distribution of paraphernalia if, when distributing hypodermic syringes, the syringe is in a sterile package and for medical purposes. Provides that a person may not be charged with possession of drug paraphernalia for possession of a hypodermic syringe, if the syringe is unused and in a sterile package.				None

HB 266	Restitution Amendments	Amends 77-38a-401	Amends the statutes regarding restitution to provide that a judgment of restitution expires only upon payment in full rather than after 8 years.				None
HB 324	HIV Testing of Alleged Sex Offenders	Amends 26-1-30 26A-1-114 76-5-501 76-5-502 76-5-504 77-37-3 78A-6-1104	Provides that an alleged victim of a sex offense may request the alleged perpetrator to submit to an HIV test after the offender has been charged rather than after a finding of guilt.				\$3,100
HB 370	Bail Bond Amendments	Amends 77-20-7 77-20b-101 Enacts 31A-35-401.5	Provides that bail is exonerated, without motion, at the time of sentencing. However, if the defendant is ordered to self report to either jail or prison within seven days of sentencing, the bail will be exonerated upon appearance at the jail or prison. Provides that bail is exonerated without motion if the court does not set a hearing on a case within 18 months of the last court docket activity on a case.				None
HB 374	Domestic Violence Amendments	Amends 77-36-1 77-36-2.1 77-36-2.5	Creates a new class B misdemeanor for a person arrested for domestic violence who contacts the alleged victim while detained in jail.	New class B misdemeanor			None
HB 385	County Jail Medical Expenses	Amends 17-22-8 17-50-319	Provides that a county jail is required to treat the medical needs of an inmate when: “(i) the person’s symptoms evidence a serious disease or injury; (ii) the person’s disease or injury is durable or may be substantially alleviated; and (iii) the potential for harm to the person by reason or denial of medical care would be substantial.” Provides that a county jail may recover the costs of an inmate’s medical care from the inmate.				None
HB 411	Approaching Stationary Emergency Vehicle Amendments	Amends 41-6a-904	Requires a 90 day suspension of the driver license of an individual convicted of approaching an emergency vehicle in violation of the law, unless the person attends a live four hour classroom course within 90 days of sentencing or pleading guilty				None

1st sub HB 445	Prison Relocation and Development Authority Act	Amends 63I-1-263 Enacts 63C-13-101 63C-13-102 63C-13-103 63C-13-104 63C-13-105 63C-13-106	Creates a “prison relocation and development authority.” The authority is intended to receive requests and proposals from individuals regarding the relocation of the prison, to evaluate the proposals, and make recommendations to the Governor. The authority shall have advisory power only.				None
1st sub 481	Transportation of Mental Illness Patients	Amends 17-22-2.5	Allows a sheriff to charge a an offender with a mentally illness \$2.50 per mile for transporting the patient to or from a hospital or mental health facility.				None
1st sub HB 497	Utah Illegal Immigration Enforcement Act	Amends 76-10-2901 77-7-2 Enacts 76-9-1001 76-9-1002 76-9-1003 76-9-1004 76-9-1005 76-9-1006 76-9-1007 76-9-1008 76-9-1009	Provides that, if an officer is otherwise unable to verify the identity of a person, a law enforcement officer shall verify the immigration status of a person stopped, detained, or arrested for a felony or class A misdemeanor and for a person booked for a class B or C misdemeanor, and that the officer attempt to verify the status of a person detained for a class B or C misdemeanor. Makes it a 3 rd degree felony to encourage or induce an alien to come to the state of Utah in violation of the law or to engage in a conspiracy to transport or harbor an alien.	2 new 3rd degree felonies* * also included in 3rd sub HB 116			\$162,200

Senate Bills							
Bill #	Title	Statute	Description	Penalty Changes	Increased Fine or Fees	Anticipated Prison Admissions	Anticipated Fiscal Impact
1 st sub SB 28	Alcohol or Drug Related Offense Amendments	Amends 41-6a-509 41-6a-517 41-6a-521 53-3-223	Provides the ability for a minor whose driver license has been suspended for a conviction for driving under the influence or driving with any measurable amount of a controlled substance to petition the court to restore their license after 2 years or 1 year, depending upon their age at conviction, upon completion of certain provisions. Previously, the minor's license would be suspended until their 21 st birthday. (see attached chart)				\$24,900
1 st sub SB 50	Enhanced Penalties for HIV Positive Offender Amendments	Amends 76-10-1309 76-10-1310 76-10-1312	Provides that a person is guilty of 3rd degree felony if they are HIV positive and are convicted of prostitution, patronizing a prostitute, or sexual solicitation and has actual knowledge of their HIV positive diagnosis, or has previously been convicted of one of the offenses that requires HIV testing as a sentencing condition.			1 every 3 years	\$7,000
SB 77	Ignition Interlock System Amendments	Amends 41-6a-518 Enacts 53-3-1001 53-3-1002 53-3-1003 53-3-1004 53-3-1005 53-3-1006 53-3-1007 53-3-1008	Requires the Driver License Division to license ignition interlock providers. Requires a provider to provide proof of installation to the person having the interlock installed. Requires the provider to notify the Division of the installation of an interlock device. It also requires a provider to give notice to the Division of the removal of an interlock device- and requires the Division to suspend a person's license if they are an interlock restricted driver, has had their interlock device removed from their vehicle and the Division has not received proof of the installation of a new device within 7 days.				\$140,500

SB 86	Sunset Reauthorizations	Amends 63I-1-226 63I-1-231 63I-1-253 63I-1-261 63I-1-263 63I-1-269	Removes the sunset reauthorization requirement for the Sentencing Commission.				None
1st sub SB 101	Utah Uniform Securities Act Enforcement	Amends 61-1-13 61-1-18.5 61-1-20 61-1-21	Increases the penalty for the fraudulent inducement to invest in securities when the person exercises undue influence and holds a special relationship of trust, or the victim is a vulnerable adult as defined by the same section of law. Increases the penalty from a third degree to a second degree felony when the value of the property, money, or thing illegally obtained is less than \$10,000. Or increases the penalty from a second degree felony to a second degree felony punishable by 3 to 15 years when the value is over \$10,000.	2 new 2nd degree felonies 2 new enhanced 2nd degree felonies		2	\$28,400
SB 106	Sexual Exploitation Amendments	(relevant statutes only) Enacts 76-5b-101 76-5b-202 76-5b-302 Renumbers and Amends 76-5b-102 76-5b-103 76-5b-201 76-5b-301	Provides a definition for “Vulnerable Adult Pornography.” Separates the requirement for financial gain from the crime of sexual exploitation of a vulnerable adult. Provides that sexual exploitation of a vulnerable adult is a third degree felony.				None
SB 110	Driver License Suspension Amendments	Amends 53-3-221	Provides that the driver license division may not assess points against a person’s driving record for a conviction of traffic violations that occurred in another state.				\$4,750

SB 124	Leaving a Child Unattended in a Motor Vehicle	Enacts 76-10-2202	Makes it a class C misdemeanor for a person who is responsible for a child under nine years of age to knowingly, intentionally, or recklessly leave a child in an enclosed compartment of a motor vehicle when the child's health or safety is at risk.				None
1st sub SB 136	Boating Amendments	(relevant statutes only) Enacts 77-2-4.3	Provides for a "compromise" or a plea in abeyance for class B and C boating violations that includes the condition of the completion of a boating safety course.				None
SB 141	Burglary Offense Amendments	Amends 76-6-202	Provides that the offense of burglary includes a person entering a building with the intent to commit any act of voyeurism, rather than the current element of intent to commit an act of voyeurism against a child younger than 14 years of age.				None
SB 147	Forgery Law Amendments	Amends 76-6-501	Creates a new second degree felony for a person to produce or transfer any false identification document or to produce, transfer or possess a document, a making implement, or an authentication feature.	4 new 2nd degree felonies		5	\$196,300
SB 159	Sex Offender Registry Revisions	Amends 77-27-21.5	Adds Canada, the United Kingdom, Australia, and New Zealand as countries from which convictions for sex or kidnap offenses require registration. Adds aggravated human trafficking, sexual exploitation of a vulnerable adult, and custodial sexual relations, when the person in custody is younger than 18 years of age as offenses requiring registration on the Sex and Kidnap Offender registry. Changes the registration period for aggravated exploitation of prostitution from 10 years to lifetime.				None
SB 279	Grand Jury Modification	Amends 77-10a-13	Requires a grand jury subpoena to be issued to a minor, who is a victim of crime, at least 72 hours before the victim is required to appear in court. *Conflicts with current court rules				None

2011 Totals*									
New 1 st Degree Felonies	New 2 nd Degree Felonies	New 3 rd Degree Felonies	New Class A Misdemeanors	New Class B Misdemeanors	New Class C Misdemeanors	New Infractions	New Fines or Fees	Anticipated Prison Admissions per year	Anticipated Fiscal Impact ^a
	10	4	2	11	1			7.3	\$6,663,850
2010 Totals									
1	3	4	6	14	4		4		\$918,000
2009 Totals									
	1	7	9	10	4	2	°	1	\$301,700
2008 Totals									
1	3	11	6	2			°	15	\$360,000
2007 Totals									
1(Capital)	1	2	3	4	1		°	9	\$216,000

* New Crime totals include penalties increased or decreased from a previously existing penalty.

^a The anticipated fiscal impact predicts costs to state agencies in only the fiscal year FY12 or the year indicated and does not include ongoing costs or the costs to county or local governments.

° Information regarding new fines or fees to offenders was not tracked in these years.